IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL
Criminal Misc. Application No. 606 of 2006

Sunil Rathi S/o Late Shri Naresh Rathi
R/o Village Tikri
Police Station Dooghat
District Baghpat ..... Applicant

Vs.

1. State of Uttaranchal
2. Judicial Magistrate/ A.C.J. IInd, Roorkee
   District Haridwar
3. Abhinav Kumar, S.S.P., Haridwar
4. R.B. Chamola, S.O.G. Incharge, Haridwar
5. Kailash Panwar, S.H.O.
   Police Station Kotwali, Roorkee
   District Haridwar
6. S.S. Samant, S.S.I.
   Police Station Kotwali, Roorkee
   District Haridwar
7. State of Uttara Pradesh, through its
   Home Secretary, Lucknow ..... Opposite Parties

Sri S.K. Shandilya, learned counsel for the applicant
Sri S.P.S. Panwar, learned Addl. C.S.C. (U.P.) counsel for the respondent No. 7
Learned A.G.A. for the State

Hon'ble B.C. Kandpal, J.

This petition under Section 482 Cr. P.C. has been filed by the applicant – Sunil Rathi for quashing the impugned order dated 14.07.2006 passed by Judicial Magistrate/Addl. Civil Judge, Roorkee, District Haridwar under Section 167 of Cr.P.C. in Case Crime No. 208 of 2006 State Vs. Sunil Rathi, under Sections 386, 506 I.P.C.

2. Brief facts of the case are that one Pankaj Jindal lodged a First Information Report on 13.07.2006 at about 09:40 a.m. against the petitioner stating therein that he received a call from the Mobile Phone No. 987191907 on his Mobile Phone and the caller told him that he was Sunil Rathi and asked him a sum of Rs. 5.00 lacs with the warning that it

is the last call and if he does not pay that much of sum, then his life would not be safe.

3. On this, the First Information Report was lodged against the petitioner and the petitioner was arrested by the police at Laksar, Railway Station. The petitioner was in the custody of Uttar Pradesh Police at that time and he was being taken back to Bareilly Jail.

4. The petitioner thereafter, was produced before the concerned court to allow the remand of the petitioner till 27.07.2006. The Magistrate thereafter directed that the warrant under Section 167 Cr. P.C. be also prepared.

5. Heard Sri S.K. Shandilya, learned counsel for the petitioner, Sri S.P.S. Panwar, learned Addl. C.S.C. (U.P.) counsel for the respondent No. 7, learned A.G.A. for the State and perused the record.

6. Having considered the arguments advanced by the learned counsel for the petitioner, I am of the view that there is no abuse of process of court. Learned counsel for the petitioner could not point out that any mandatory provision of law has not been complied with by the Magistrate while passing, the impugned order.

7. I am not supposed to embark upon an enquiry with regard to the credibility of the evidence, at this stage. Any judgment rendered by me would amount to premature judgment, especially under the circumstances where the evidence is yet to be adduced before the court concerned.

8. I don't find any merit in the case and the petition liable to be dismissed.

9. Accordingly, the petition under Section 482 Cr. P.C. is dismissed.

(B.C. Kandpal, J.)

01.08.2006
ASWAL